

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JOSE CARLOS DUARTE,

Plaintiff,

v.

PUB 106, INC., AND DANA COLBY,

Defendants.

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)
)
)
)
)
)
)
)
)

Civil Action No.
05-11725

**PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION
TO SET ASIDE DEFAULT JUDGMENT**

Plaintiff requests that this Court deny Defendants' Motion to Set Aside Default Judgment because they have not met the "demanding standard" of Rules 55(c) and 60(b) of the Federal Rules of Civil Procedure. See *United States v. \$23,000 in Currency*, 356 F.3d 157, 164 (1st Cir. 2004). Specifically, as discussed below, Defendants cannot show "excusable neglect" in their failure to engage in this litigation at all for almost one year. *Id.* Respectfully, Plaintiff submits that Defendants' claim that they did not become aware of the case until June 2006 is not credible.

BACKGROUND

The relevant facts are as follows:

1. Plaintiff's counsel sent a letter to Defendant Dana Colby with a draft of a federal court complaint in June 2005. Ex. A.
2. Mr. Colby called Plaintiff's counsel in response to this letter, and the parties engaged in settlement negotiations. Ex. B.

3. Because the parties were unable to resolve the matter, Plaintiff's counsel filed a complaint in federal court.

4. Plaintiff's counsel then arranged that the complaint be served on the Defendants at the address listed with the Massachusetts Secretary of the Commonwealth, 650 Plymouth Street, East Bridgewater, Massachusetts 02333. Exs. C, D.

5. Plaintiff's counsel directed the Plymouth County Sheriff to serve the complaint on a Dana H. Colby Jr. at the above address because Defendant Colby's name was listed with the Massachusetts Secretary of the Commonwealth as "Dana H. Colby Jr." Ex. D.

6. In fact, Mr. Colby's name is listed as "Dana H. Colby Jr." with the Massachusetts Secretary of the Commonwealth in connection with several corporations in which he has an interest. Ex. E.

7. The return of service indicates that the complaint was served on Mr. Colby in person on August 29, 2005. Ex. F.

ARGUMENT

In light of the information set forth above, it is simply not credible that Mr. Colby did not receive notice of this lawsuit until June 2006. He received correspondence from Plaintiff's counsel stating that Plaintiff intended to file a federal court complaint, he engaged in settlement discussions with Plaintiff's counsel, and the complaint was served on him at the corporate address for Pub 106 listed with the Secretary for the Commonwealth. Moreover, because Pub 106 has listed Mr. Colby as "Dana H. Colby

Jr.” with the Secretary of the Commonwealth, Defendants’ argument that service was made on a nonexistent person is unavailing.

CONCLUSION

Defendants have failed to participate in this litigation for the past year, during which time the Court has entered final judgment in favor of Plaintiff on his lost wages claim. Plaintiff’s claim is well documented, and the Court’s judgment is supported by the evidence presented by Plaintiff in support of the default. Plaintiff respectfully requests that this Court prevent any further delay in Plaintiff’s recovery of the lost wages owed to him and deny Defendants’ motion to set aside the default judgment.

Respectfully submitted,

JOSE CARLOS DUARTE,
By his attorneys,

s/Shannon Liss-Riordan
Shannon Liss-Riordan, BBO #640716
Hillary Schwab, BBO #(pending)
PYLE, ROME, LICHTEN, EHRENBURG
& LISS-RIORDAN, P.C.
18 Tremont Street, Suite 500
Boston, MA 02108
(617) 367-7200

Dated: August 4, 2006

CERTIFICATE OF SERVICE

I hereby certify that, on August 4, 2006, a copy of the above document was served by electronic filing on Donald J. Kaiser, Esq., Reed Adami & Kaiser, 1325 Belmont Street, Brockton, Massachusetts 02301-4401, counsel for Defendants Pub 106, Inc., and Dana Colby.

s/Hillary Schwab
Hillary Schwab, Esq.

EXHIBIT A

PYLE, ROME, LICHTEN, EHRENBURG & LISS-RIORDAN, P.C.

Attorneys at Law
18 Tremont Street, Suite 500
Boston, MA 02108

Telephone (617) 367-7200
Fax (617) 367-4820

Tod A. Cochran
OF COUNSEL

Warren H. Pyle
David B. Rome
Harold L. Lichten*
Betsy Ehrenberg
Shannon Liss-Riordan**
Terence E. Coles
Katherine D. Shea

M. Amy Carlin
Nicole Horberg Decter**
Rebecca G. Pontikes
Alfred Gordon
Leah M. Barrault

*Also admitted in Maine

**Also admitted in New York

June 6, 2005

Dana Colby
Pub 106, Inc.
1300 Plymouth Street
East Bridgewater, MA 02333

Dear Mr. Colby:

I have been retained by Jose Carlos Duarte, who was, as you know, until recently employed at Pub 106. I understand that Mr. Duarte was never paid time-and-a-half for overtime hours that he worked, although he routinely worked much more than forty hours per week. Enclosed is a copy of a complaint that I intend to file on Mr. Duarte's behalf in federal court. If, however, you or your legal counsel would like to discuss this with me and try to resolve this complaint before I file the case, please call me or Attorney Stephen Young by June 20, 2005.

Sincerely,

Shannon Liss-Riordan/BL
Shannon Liss-Riordan

Enclosure

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOSE CARLOS DUARTE,

Plaintiff,

V.

PUB 106, INC., AND DANA COLBY,

Defendants.

JURY DEMANDED

COMPLAINT

I. INTRODUCTION

This is an action for the defendants' failure to pay overtime wages under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201 et seq. As set forth below, Plaintiff Jose Carlos Duarte worked in the kitchen at Defendants' restaurant Pub 106 from June 2000 until March 2005. Throughout his employment, Plaintiff routinely worked much more than forty hours per week. However, he was paid his regular base rate of pay for all hours worked and was not paid time-and-a-half for his overtime hours. In this action, Plaintiff now seeks reimbursement for his unpaid overtime wages, as well as liquidated damages, attorneys' fees, and costs, all as provided for by law.

II. PARTIES

1. Plaintiff Jose Carlos Duarte is an adult resident of Brockton, Massachusetts. Plaintiff was employed by Defendants from approximately June 2000 until March 2005.

2. Defendant Pub 106, Inc., is a Massachusetts corporation that operates a restaurant located at 1300 Plymouth Street in East Bridgewater, Massachusetts.

3. Defendant Dana Colby is an adult resident of East Bridgewater, Massachusetts, and is an owner and officer of Pub 106, Inc., and was Plaintiff's employer.

III. STATEMENT OF FACTS

4. Plaintiff worked at Pub 106, Inc., from June 2000 until March 2005.

5. Plaintiff worked primarily in the kitchen, and his duties included washing dishes, cooking, and cleaning.

6. Plaintiff was a non-exempt employee who is entitled to overtime compensation under the FLSA for hours worked over forty hours per week.

7. Throughout his employment at Pub 106, Inc., Plaintiff routinely worked much more than forty hours per week, often as much as seventy to one hundred hours per week.

8. Plaintiff's regular base rate of pay began at \$7 per hour when he first started working at Pub 106, Inc. By approximately 2001, it had risen to \$8

per hour, and by the time his employment ended in March 2005, it was \$9 per hour.

9. Plaintiff received only his regular base rate of pay for all hours worked, including those over forty per week. He did not receive time-and-a-half for his overtime hours.

10. For each week of Plaintiff's employment at Pub 106, Inc., Defendants issued Plaintiff a paycheck showing his total hours worked and calculating his pay at straight time for all hours worked, including those over forty per week.

11. The defendants' failure to pay Plaintiff time-and-a-half for his overtime hours was a willful violation of the FLSA.

COUNT I

FAIR LABOR STANDARDS ACT

Defendants' knowing and willful failure to pay Plaintiff overtime compensation to which he was entitled violates the federal Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*

JURY DEMAND

Plaintiff requests a trial by jury on his claim.

WHEREFORE, Plaintiff requests that this Court enter the following relief:

1. Unpaid overtime compensation;
2. Liquidated damages;
3. Attorneys' fees and costs; and
4. Any other relief to which Plaintiff may be entitled.

Respectfully submitted,

JOSE CARLOS DUARTE,
By his attorney,

Shannon Liss-Riordan, BBO #640716
PYLE, ROME, LICHTEN, EHRENBURG
& LISS-RIORDAN, P.C.
18 Tremont Street, Suite 500
Boston, MA 02108
(617) 367-7200

Dated: June __, 2005

EXHIBIT B

PYLE, ROME, LICHTEN, EHRENBURG & LISS-RIORDAN, P.C.

Attorneys at Law
18 Tremont Street, Suite 500
Boston, MA 02108

Telephone (617) 367-7200
Fax (617) 367-4820

Tod A. Cochran
OF COUNSEL

Warren H. Pyle
David B. Rome
Harold L. Lichten*
Betsy Ehrenberg
Shannon Liss-Riordan**
Terence E. Coles
Katherine D. Shea

M. Amy Carlin
Nicole Horberg Decter**
Rebecca G. Pontikes
Alfred Gordon
Leah M. Barrault

*Also admitted in Maine
**Also admitted in New York

August 2, 2005

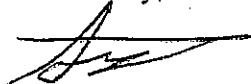
Dana Colby
Pub 106, Inc.
1300 Plymouth Street
East Bridgewater, MA 02333

Dear Mr. Colby:

As you requested in our last telephone conversation, I am writing to explain the basis of our suggested settlement offer of \$20,000 to settle the wage claims of my client Jose Carlos Duarte. As we explained in our previous letter, we understand that Mr. Duarte was never paid time-and-a-half for his overtime hours. Mr. Duarte kept all of his pay stubs, and according to the hours indicated on them, he is owed roughly \$12,000 in unpaid overtime for the past three years, the statutory period. However, if Mr. Duarte pursues this matter in court, he could be awarded double damages for his claims, i.e., as much as \$24,000, as well as attorneys' fees, costs, and any other relief that the court deems appropriate. We remain willing to discuss this case with you to determine whether it can be resolved without the need to file it in court, and we propose that \$20,000 would be a fair amount to settle this matter without litigation.

Please inform me of your response to this demand by next Thursday, August 11. I will hold off on filing the complaint until then, while I wait to hear from you.

Sincerely,



Stephen Young, Esq.

EXHIBIT C

PYLE, ROME, LICHTEN, EHRENBURG & LISS-RIORDAN, P.C.

Attorneys at Law
18 Tremont Street, Suite 500
Boston, MA 02108

Telephone (617) 367-7200
Fax (617) 367-4820

Tod A. Cochran
OF COUNSEL

Warren H. Pyle
David B. Rome
Harold L. Lichten*
Betsy Ehrenberg
Shannon Liss-Riordan**
Terence E. Coles
Katherine D. Shea

M. Amy Carlin
Nicole Horberg Decter**
Rebecca G. Pontikes
Alfred Gordon
Leah M. Barrault

August 23, 2005

*Also admitted in Maine

**Also admitted in New York

Plymouth County Sheriff's Office
Civil Process Office
22 Cottage Street
P.O. Box 1663
Brockton, MA 02303

Re: Jose Carlos Duarte v. Pub 106, Inc., and Dana Colby
USDC Case No. 05-11725 WGY

Dear Sir or Madam:

Enclosed in connection with the above-referenced matter, please find two
Summonses and copies of the Complaint, to be served in hand upon:

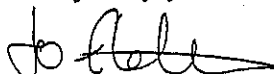
Dana H. Colby, Jr., President

and Pub 106, Inc.
650 Plymouth Street
East Bridgewater, MA 02333

Please have these documents served at your earliest convenience and return
proof of service along with your bill for same.

Thank you for your assistance in this matter. Please do not hesitate to call if you
have any questions.

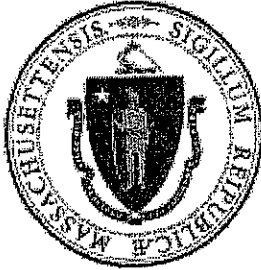
Very truly yours,



Jo Fletcher
For Stephen Young

Enclosures

EXHIBIT D



The Commonwealth of Massachusetts
William Francis Galvin

Secretary of the Commonwealth
 One Ashburton Place, Boston, Massachusetts 02108-1512
 Telephone: (617) 727-9640

PUB 106, INC. Summary Screen



Help with this form

Request a Certificate

The exact name of the Domestic Profit Corporation: PUB 106, INC.

Entity Type: Domestic Profit Corporation

Identification Number: 043250729

Old Federal Employer Identification Number (Old FEIN): 000474688

Date of Organization in Massachusetts: 08/29/1994

Current Fiscal Month / Day: 12 / 31

Previous Fiscal Month / Day: 00 / 00

The location of its principal office in Massachusetts:

No. and Street: 650 PLYMOUTH ST.

City or Town: EAST BRIDGEWATER

State: MA

Zip: 02333

Country: USA

If the business entity is organized wholly to do business outside Massachusetts, the location of that office:

No. and Street:

City or Town:

State:

Zip:

Country:

The name and address of the Registered Agent:

Name:

No. and Street:

City or Town:

State:

Zip:

Country:

The officers and all of the directors of the corporation:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code	Expiration of Term
PRESIDENT	DANA H. COLBY JR.	650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA 650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA	
TREASURER	DANA H. COLBY JR.	650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA 650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA	

SECRETARY	DANA H. COLBY JR.	650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA 650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA
-----------	-------------------	--

business entity stock is publicly traded: ☐

The total number of shares and par value, if any, of each class of stock which the business entity is authorized to issue:

Class of Stock	Par Value Per Share Enter 0 if no Par	Total Authorized by Articles of Organization or Amendments <i>Num of Shares Total Par Value</i>	Total Issued and Outstanding <i>Num of Shares</i>
No Stock Information available online. Prior to August 27, 2001, records can be obtained on microfilm.			

☐ Consent ☐ Partnership

☐ Manufacturer ☐ Resident Agent

☐ Confidential Data ☐ For Profit

☐ Does Not Require Annual Report ☐ Merger Allowed

Select a type of filing from below to view this business entity filings:

ALL FILINGS

Administrative Dissolution

Annual Report

Application for Reinstatement

Application For Revival

View Filings

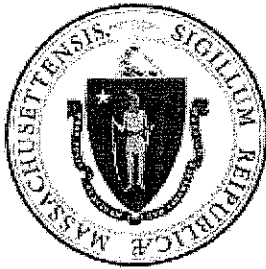
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Comments

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EXHIBIT E



The Commonwealth of Massachusetts
William Francis Galvin

Secretary of the Commonwealth
 One Ashburton Place, Boston, Massachusetts 02108-1512
 Telephone: (617) 727-9640

HILLTOP REALTY CORP. Summary Screen



Help with this form

[Request a Certificate](#)

The exact name of the Domestic Profit Corporation: HILLTOP REALTY CORP.

Entity Type: Domestic Profit Corporation

Identification Number: 043142092

Old Federal Employer Identification Number (Old FEIN): 000370687

Date of Organization in Massachusetts: 08/21/1991

Current Fiscal Month / Day: 12 / 31

Previous Fiscal Month / Day: 00 / 00

The location of its principal office in Massachusetts:

No. and Street: 650 PLYMOUTH ST.

City or Town: EAST BRIDGEWATER

State: MA

Zip: 02333

Country: USA

If the business entity is organized wholly to do business outside Massachusetts, the location of that office:

No. and Street:

City or Town:

State:

Zip:

Country:

The name and address of the Registered Agent:

Name:

No. and Street:

City or Town:

State:

Zip:

Country:

The officers and all of the directors of the corporation:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code	Expiration of Term
PRESIDENT	DANA H. COLBY JR.	650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA	
TREASURER	DANA H. COLBY JR.	650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA	
SECRETARY	DANA H. COLBY JR.	650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA	

DIRECTOR	DANA H. COLBY JR.	650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA
----------	-------------------	---

business entity stock is publicly traded: ☐

The total number of shares and par value, if any, of each class of stock which the business entity is authorized to issue:

Class of Stock	Par Value Per Share Enter 0 if no Par	Total Authorized by Articles of Organization or Amendments		Total Issued and Outstanding Num of Shares
		Num of Shares	Total Par Value	
PNP	\$0.00000	100	\$0.00	100

☐ Consent
 ☐ Manufacturer
 ☐ Confidential Data
 ☐ Does Not Require Annual Report
☐ Partnership
 ☐ Resident Agent
 ☐ For Profit
 ☐ Merger Allowed

Select a type of filing from below to view this business entity filings:

ALL FILINGS

Administrative Dissolution

Annual Report

Application for Reinstatement

Application For Revival

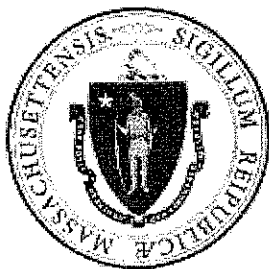
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Comments

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The Commonwealth of Massachusetts
William Francis Galvin

Secretary of the Commonwealth
One Ashburton Place, Boston, Massachusetts 02108-1512
Telephone: (617) 727-9640

CRESCENT RIDGE DEVELOPMENT CORP. Summary Screen



Help with this form

[Request a Certificate](#)

The exact name of the Domestic Profit Corporation: CRESCENT RIDGE DEVELOPMENT CORP.

Entity Type: Domestic Profit Corporation

Identification Number: 043160113

Old Federal Employer Identification Number (Old FEIN): 000388664

Date of Organization in Massachusetts: 03/18/1992

Current Fiscal Month / Day: 12 / 31

Previous Fiscal Month / Day: 00 / 00

The location of its principal office in Massachusetts:

No. and Street: 650 PLYMOUTH ST.
City or Town: EAST BRIDGWATER State: MA Zip: 02333 Country: USA

If the business entity is organized wholly to do business outside Massachusetts, the location of that office:

No. and Street:
City or Town: State: Zip: Country:

The name and address of the Registered Agent:

Name:
No. and Street:
City or Town: State: Zip: Country:

The officers and all of the directors of the corporation:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code	Expiration of Term
PRESIDENT	DANA H. COLBY JR.	650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA 650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA	
TREASURER	JEREMY J. REDDER	10 JEAN TERRACE, EAST BRIDGEWATER, MA 02333 USA 10 JEAN TERRACE, EAST BRIDGEWATER, MA 02333 USA	
SECRETARY	DANA H. COLBY JR.	650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA 650 PLYMOUTH ST., EAST	

BRIDGEWATER, MA 02333 USA

business entity stock is publicly traded: ☐

The total number of shares and par value, if any, of each class of stock which the business entity is authorized to issue:

Class of Stock	Par Value Per Share Enter 0 if no Par	Total Authorized by Articles of Organization or Amendments		Total Issued and Outstanding
		<i>Num of Shares</i>	<i>Total Par Value</i>	
No Stock Information available online. Prior to August 27, 2001, records can be obtained on microfilm.				

☐ Consent ☐ Manufacturer ☐ Confidential Data ☐ Does Not Require Annual Report
☒ Partnership ☐ Resident Agent ☒ For Profit ☐ Merger Allowed

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ALL FILINGS
Administrative Dissolution
Annual Report
Application for Reinstatement
Application For Revival

View Filings

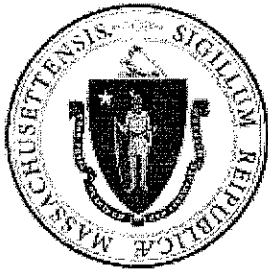
New Search

Comments

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Help



**The Commonwealth of Massachusetts
William Francis Galvin**

Secretary of the Commonwealth
One Ashburton Place, Boston, Massachusetts 02108-1512
Telephone: (617) 727-9640

PUB 106, INC. Summary Screen



Help with this form

[Request a Certificate](#)

The exact name of the Domestic Profit Corporation: PUB 106, INC.

Entity Type: Domestic Profit Corporation

Identification Number: 043250729

Old Federal Employer Identification Number (Old FEIN): 000474688

Date of Organization in Massachusetts: 08/29/1994

Current Fiscal Month / Day: 12 / 31

Previous Fiscal Month / Day: 00 / 00

The location of its principal office in Massachusetts:

No. and Street: 650 PLYMOUTH ST.
City or Town: EAST BRIDGEWATER State: MA Zip: 02333 Country: USA

If the business entity is organized wholly to do business outside Massachusetts, the location of that office:

No. and Street:
City or Town: State: Zip: Country:

The name and address of the Registered Agent:

Name:
No. and Street:
City or Town: State: Zip: Country:

The officers and all of the directors of the corporation:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code	Expiration of Term
PRESIDENT	DANA H. COLBY JR.	650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA 650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA	
TREASURER	DANA H. COLBY JR.	650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA 650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA	
SECRETARY	DANA H. COLBY JR.	650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA 650 PLYMOUTH ST., EAST BRIDGEWATER, MA 02333 USA	

business entity stock is publicly traded: ☐

The total number of shares and par value, if any, of each class of stock which the business entity is authorized to issue:

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		<i>Num of Shares</i>	<i>Total Par Value</i>	
No Stock Information available online. Prior to August 27, 2001, records can be obtained on microfilm.				

☐ Consent ☐ Manufacturer ☐ Confidential Data ☐ Does Not Require Annual Report
☐ Partnership ☐ Resident Agent ☐ For Profit ☐ Merger Allowed

Select a type of filing from below to view this business entity filings:

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Application for Reinstatement
Application For Revival

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EXHIBIT F

UNITED STATES DISTRICT COURT

District of
MASSACHUSETTS

Jose Carlos Duarte

V.

Pub 106, Inc. and Dana Colby

SUMMONS IN A CIVIL CASE

05 - 11725 WGY

CASE NUMBER:

TO: (Name and address of Defendant)

Pub 106, Inc.
650 Plymouth Street
East Bridgewater, MA 02333

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

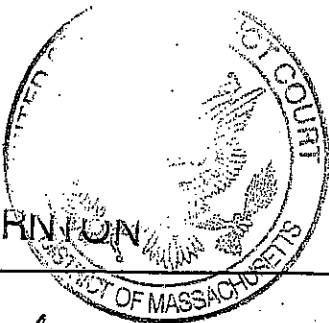
Shannon Liss-Riordan, Esq.
Pyle, Rome, Lichten, Ehrenberg & Liss-Riordan, P.C.
18 Tremont Street, Suite 500
Boston, MA 02108

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

SARAH A. THORNTON

CLERK

(By) DEPUTY CLERK



AUG 22 2005

DATE



Plymouth County Sheriff's Department • P.O. Box 1663 • Brockton, MA 02303 • 508-580-2110
Plymouth, ss.

August 26, 2005

I hereby certify and return that on 8/24/2005 at 5:34PM I served a true and attested copy of the summons and complaint with jury demand in this action in the following manner: To wit, by delivering in hand to Dana H. Colby, Jr., agent, person in charge at the time of service for Pub 106, Inc., at, 650 Plymouth Street, East Bridgewater, MA 02333. Attest (1 copy) (\$5.00), P&H (no mailing) (\$1.00), Basic Service Fee (\$30.00), Conveyance (\$1.50), Travel (\$14.40) Total Charges \$51.90

AUG 29 2005

William J. Carpenito
Deputy Sheriff

Deputy Sheriff William J. Carpenito

☐ Returned unexecuted. _____

☐ Other (specify): _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
--------	----------	-------

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date Signature of Server

Address of Server

UNITED STATES DISTRICT COURT

District of
MASSACHUSETTS

Jose Carlos Duarte

V.

Pub 106, Inc. and Dana Colby

SUMMONS IN A CIVIL CASE

05 - 11725 WGY

CASE NUMBER:

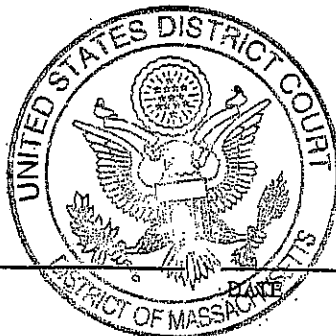
TO: (Name and address of Defendant)

Dana H. Colby, President of Pub 106, Inc.
650 Plymouth Street
East Bridgewater, MA 02333

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Shannon Liss-Riordan, Esq.
Pyle, Rome, Lichten, Ehrenberg & Liss-Riordan, P.C.
18 Tremont Street, Suite 500
Boston, MA 02108

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.



ARAH A. THORNTON

CLERK

(By) DEPUTY CLERK

AUG 22 2005



August 26, 2005

I hereby certify and return that on 8/24/2005 at 5:34PM I served a true and attested copy of the summons and complaint with jury demand in this action in the following manner: To wit, by delivering in hand to Dana H. Colby, Jr. at, 650 Plymouth Street, East Bridgewater, MA 02333. Attest (1 copy) (\$5.00), P&H (no mailing) (\$1.00), Basic Service Fee (\$30.00) Total Charges \$36.00

AUG 29 2005

Deputy Sheriff William J. Carpenito

William J. Carpenito
Deputy Sheriff

☐ Returned unexecuted: _____

☐ Other (specify): _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
--------	----------	-------

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date Signature of Server

Address of Server